

10/27/09 3:09:00
DK T BK 3,095 PG 343
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

SS
SS
10/27/09 3:10:17
DK P BK 134 PG 510
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

**PREPARED BY,
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wachovia Bank, National Association
5400 LBJ Freeway, Suite 1000
Dallas, TX 75240
Attn: Dwight Reid
Loan No. WB 10495
Phone: (972) 364-1025

After Recording, Return to.
Baskin, McCarroll, McCaskill, Aldridge
& Campbell, PA
* PO Box 190
Southaven, MS 38671
(662) 349-0664
File No: 905045 Initials: _____

Property Indexing Instructions:

**Lot 3, according to the Plat of Lots 5-8,
Airport Industrial Park, P.B.P. & Revision
of Lots 3 & 4, Airport Industrial Park P.B.P.,
Northeast ¼ of Section 24, Township 1 South,
Range 8 West City of Southaven, County of
DeSoto, Mississippi, as recorded in Plat Book
84, Pages 30-32**

THIRD MODIFICATION AND EXTENSION AGREEMENT

This THIRD MODIFICATION AND EXTENSION AGREEMENT (this "**Agreement**") is executed on October 23, 2009 ("**Execution Date**") but dated effective as of July 15, 2009 (the "**Effective Date**") by and among HLIT ADC1, LLC, a Mississippi limited liability company, ("**Borrower**"), HILLWOOD LIT II, LP, a Delaware limited partnership ("**Existing Guarantor**"), LION INDUSTRIAL PROPERTIES, L.P., a Delaware limited partnership ("**New Guarantor**") and WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association ("**Lender**");

WITNESSETH:

WHEREAS, Borrower has executed and delivered to Lender, inter alia, (i) that certain Promissory Note dated as of February 2, 2006, payable to the order of Lender in the original principal sum of \$15,625,000, with interest and principal payable as therein provided, as

modified by that certain (a) Letter Agreement dated January 16, 2008; (b) Letter Agreement dated May 12, 2008 (together with the Letter Agreement dated January 16, 2008, collectively, the "**Letter Agreements**"), (c) Note Extension and Modification Agreement dated as of June 5, 2008 ("**First Modification**") executed by Borrower, Existing Guarantor, and Lender, (d) Second Extension and Modification Agreement dated as of May 10, 2009 executed by Borrower, Existing Guarantor, and Lender, recorded in Deed of Trust Book 3,055, Page 134 and recorded in Power of Attorney Book 132, Page 712 in the Office of the Chancery Clerk of DeSoto County, Mississippi ("**Second Modification**" and together with the First Modification, collectively, the "**Modification Agreements**") (said Promissory Note, as modified by the Letter Agreements and Modification Agreements is herein called the "**Note**"); (ii) that certain Deed of Trust and Security Agreement dated of even date with the Note from Borrower to TRSTE, Inc., securing payment of the Note, covering certain real and personal property described therein (the "**Mortgaged Property**"), recorded in Deed of Trust Book 2405, Page 465 in the Office of the Chancery Clerk of DeSoto County, Mississippi, as modified by (i) that certain Amendment to Deed of Trust and Security Agreement dated as of June 5, 2008, from Borrower to TRSTE, Inc., recorded in Deed of Trust Book 2913, Page 583 and recorded in Power of Attorney Book 126, Page 707 in the Office of the Chancery Clerk of DeSoto County, Mississippi ("**Amendment to Deed of Trust**"), and (ii) the Modification Agreements (said Deed of Trust and Security Agreement, as modified by the Amendment to Deed of Trust and Modification Agreements, is herein called the "**Deed of Trust**"); (iii) that certain Assignment of Rents and Leases dated of even date with the Note from Borrower to Lender, securing payment of the Note, recorded in Power of Attorney Book 112, Page 605 in the Office of the Chancery Clerk of DeSoto County, Mississippi (the "**Assignment of Rents**"), (iv) that certain Loan Agreement dated of even date with the Note between Borrower and Lender, as modified by the Modification Agreements (as modified, the "**Loan Agreement**") and (v) that certain Environmental Indemnity Agreement dated of even date with the Note executed by Borrower and Existing Guarantor in favor of Lender (the "**Indemnity Agreement**"), reference being here made to the Deed of Trust and Assignment of Rents and the record thereof for all purposes (the foregoing documents and the Existing Guaranty defined below and all other documents executed by Borrower and/or any other party or parties evidencing or securing or otherwise in connection with the loan evidenced by the Note, collectively the "**Loan Documents**");

WHEREAS, Existing Guarantor has executed the Indemnity Agreement and that certain Guaranty Agreement dated of even date with the Note in favor of Lender (the "**Existing Guaranty**"), which Existing Guaranty guarantees certain obligations of Borrower under the Loan Documents;

WHEREAS, the Note is due to mature and will be fully due and payable on July 15, 2009 (the "**Maturity Date**");

WHEREAS, Borrower has requested that Lender extend the Maturity Date of the Loan to June 30, 2012 and make certain other amendments and modifications to the Loan Documents, and Lender is willing to do so on the terms and conditions provided in this Agreement; and

WHEREAS, Lender is the owner and holder of the Note and Borrower is the owner of the legal and equitable title to the Mortgaged Property.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals; Defined Terms.** Borrower and Lender agree that the Recitals herein are true and correct. Capitalized terms not otherwise defined herein shall have the same definition as set forth in the Loan Agreement. The term "Loan Documents", as used in this Agreement and the other Loan Documents, shall include this Agreement.

2. **Principal Prepayment; Outstanding Principal Balance.** Contemporaneously with the execution of this Agreement, and as a condition to the effectiveness of the modifications to the Loan Documents set forth herein, Borrower shall make a principal prepayment of \$157,334 to Lender (the "**Principal Prepayment**"). Borrower and Lender hereby acknowledge that the unpaid principal balance of the Note, after giving credit for the Principal Prepayment to be made by Borrower to Lender, is \$15,012,184. The amount of the Loan is hereby reduced to \$15,012,184 and Borrower acknowledges that, notwithstanding anything to the contrary in any of the Loan Documents, Lender shall have no further obligation to advance any additional funds.

3. **Extension of Maturity Date.** The Maturity Date is hereby extended to June 30, 2012. The liens, security interests, assignments and other rights evidenced by the Deed of Trust and other Loan Documents are hereby renewed and extended to secure payment of the Note as extended hereby. The definition of "Maturity Date" and all references to the maturity of the Loan which appear in the Loan Documents shall hereafter refer to June 30, 2012. Borrower acknowledges that Borrower has no further right to extend the Maturity Date and all extension terms referred to in Section 5 of the Note are hereby cancelled.

4. **Extension Fee.** Prior to or contemporaneously with the execution and delivery of this Agreement, Borrower shall pay to Lender an extension fee in the amount of \$112,591.

5. **Modifications to Note.** From and after the Effective Date, the Note is hereby amended as follows:

(a) The following defined terms are hereby added to Section 1 of the Note:

(i) "**Federal Funds Rate**" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Lender from three (3) Federal Funds brokers of recognized standing selected by Lender.

(ii) "**One-Month Rate**" is the rate of interest, rounded upward to the nearest whole multiple of one-sixteenth of one percent (.0625%) quoted by Lender from time to time as the London InterBank Offered Rate for deposits in

U.S. Dollars at approximately 9:00 a.m. (California time) for a period of one (1) month.

(iii) **"One-Month LIBO Rate"** is the rate of interest, rounded upward to the nearest whole multiple of one-hundredth of one percent (.01%), equal to the sum of: (a) three and one-half percent (3.5%) plus (b) the One-Month Rate, which One-Month Rate is divided by one (1.00) minus the Reserve Percentage.

$$\text{One-Month LIBO Rate} = 3.5\% + \frac{\text{One-Month Rate}}{1 - \text{Reserve Percentage}}$$

(iv) **"Replacement Rate"** means, for any day, the fluctuating rate of interest equal to three and one-half percent (3.5%) plus the Federal Funds Rate plus one and one-half percent (1.50%).

(v) **"Reserve Percentage"** means at any time the percentage announced within Lender as the reserve percentage under Regulation D for loans and obligations making reference to the London InterBank Offered Rate. The Reserve Percentage shall be based on Regulation D or other regulations from time to time in effect concerning reserves for Eurocurrency Liabilities as defined in Regulation D from related institutions as though Lender were in a net borrowing position, as promulgated by the Board of Governors of the Federal Reserve System, or its successor.

(b) The following defined terms are amended and restated in their entirety to read as follows:

(i) **"Default Rate"** means a per annum rate of interest equal to five percent (5.0%) in excess of the interest rate at which interest is accruing on the outstanding principal of this Note from time to time.

(ii) **"Guarantor"** means, collectively, (i) Hillwood LIT II, LP, a Delaware limited partnership, and (ii) Lion Industrial Properties, L.P., a Delaware limited partnership.

(iii) **"Guaranty"** means, collectively, (i) that certain Guaranty Agreement of even date with the Note from Hillwood LIT II, LP, a Delaware limited partnership in favor of Lender, as amended by the Third Modification and Extension Agreement dated effective July 15, 2009, executed by and among Lender, Borrower and Guarantor (the **"Third Modification Agreement"**), as the same may be further modified from time to time, and (ii) that certain Repayment Guaranty dated October 23, 2009, executed by Lion Industrial Properties, L.P., a Delaware limited partnership in favor of Lender, as the same may be modified from time to time.

(c) The defined terms "**LIBOR**", "**LIBOR Period**", and "**LIBOR Plus Rate**" are hereby deleted from the Note.

(d) Interest Rate. From and after the Effective Date, Section 3 of the Note is hereby amended in its entirety to read as follows:

"3. Interest Rate.

(a) The outstanding principal balance of the Loan will bear interest at the One-Month LIBO Rate. The One-Month LIBO Rate shall be adjusted daily to reflect changes in the One-Month Rate as determined by Lender. Changes in the One-Month LIBO Rate shall become effective on the date the change occurs. In the event the One-Month LIBO Rate, for any reason, should become prohibited or unavailable to Lender, or, if in Lender's good faith judgment, it is not possible or practical for Lender to set a One-Month LIBO Rate, THEN, the interest rate on this Note shall be the Replacement Rate.

(b) Borrower agrees that, notwithstanding the fact that Borrower may have elected to base the interest rate applicable hereunder upon Lender's cost of funds in the Eurodollar market, Lender shall not be required actually to obtain funds from such source at any time.

(c) Following the occurrence and during the continuance of an Event of Default under the Loan, the applicable interest rate will be increased to the Default Rate, with such Default Rate to remain in effect until such Event of Default is cured, and thereafter shall revert back to the One-Month LIBO Rate (or Replacement Rate, as the case may be).

(d) Interest shall be calculated on the outstanding principal balance of this Note on the basis of a 360-day year, based on the actual number of days elapsed.

(e) In no event shall the interest rate on the outstanding principal balance of this Note be less than four and one-half percent (4.5)% per annum based on a 360-day year and charged on the basis of actual days elapsed ("**Interest Rate Floor**"). Notwithstanding the foregoing, if Borrower and Lender now or hereafter enter into an interest rate swap transaction in connection with this Note, THEN, for the duration of such interest rate swap transaction, the Interest Rate Floor shall not apply to so much of the principal balance of this Note as is equal to the notional amount of such interest rate swap transaction."

(e) Payment Terms. From and after the Effective Date, Section 5 of the Note is hereby amended in its entirety to read as follows:

"5. Payment Terms. The principal of and interest on this Note are payable as follows:

(a) On November 1, 2009 and on the same day of each successive calendar month thereafter, through and including June 1, 2012, Borrower shall pay to Lender payments of all accrued and unpaid interest on the outstanding principal balance of this Note.

(b) On the Execution Date and on December 1, 2009 and on the first day of each successive calendar month thereafter, through and including April 1, 2011 or until such time as Borrower has made principal payments equal to the aggregate sum of \$2,832,012, Borrower shall pay to Lender principal payments of \$157,334 each month, which payments are in addition to the payments of accrued and unpaid interest due on each such date.

(c) On June 30, 2012, the outstanding principal balance of this Note, together with all accrued and unpaid interest thereon, will be due and payable in full.

(d) The outstanding principal balance is prepayable in whole or in part at any time without premium or penalty. Amounts prepaid may not be reborrowed. Borrower shall provide not less than ten (10) days written notice to Lender prior to prepayment.

(e) Each payment hereunder shall be applied first to accrued but unpaid interest on the outstanding principal balance hereof, and then to reduction of principal.

(f) Upon the occurrence of any Event of Default under this Note or any of the other Loan Documents, all remaining principal payments required to be made by Borrower to Lender under Section 5(b) of this Note (and which have not yet been made by Borrower) shall immediately become due and payable in full, regardless of whether or not Lender elects to exercise its right to accelerate the maturity of the indebtedness outstanding under the Loan Documents (the "Indebtedness"). In the event that Lender elects not to exercise its rights under the Loan Documents to accelerate the outstanding Indebtedness upon the occurrence of an Event of Default, no action by Lender to demand payment for all principal amounts due pursuant to this Section 5(f) shall constitute a waiver by Lender of its rights to later pursue any of its other remedies under the Loan Documents, including without limitation, Lender's right to accelerate the outstanding Indebtedness as a result of such Event of Default."

(f) Section 11(n) is hereby added to the Note, and reads as follows:

"(n) Except as expressly set forth in the Loan Documents, Borrower, and any endorsers and guarantors hereof, severally waive: presentment; demand; notice of dishonor; notice of default or delinquency; notice of intention to accelerate; notice of acceleration; notice of protest and nonpayment; notice of costs, expenses or losses and interest thereon; notice of late charges; and diligence in taking any action to collect any sums owing under this Note or in proceeding

against any of the rights or interests in or to properties securing payment of this Note. Borrower, and any endorsers or guarantors hereof, agree that the time for any payments hereunder may be extended from time to time without notice and consent, to the acceptance of further collateral, and/or the release of any existing collateral for the payment of this Note, all without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note or any installment hereof shall affect the liability of Borrower under this Note or any endorser or guarantor hereof even though Borrower or such endorser or guarantor is not a party to such agreement."

6. **Modifications to the Loan Agreement.**

(a) The definition of Guarantor set forth in Section 1.1 of the Loan Agreement is hereby amended in its entirety to read as follows:

"**Guarantor**" means, collectively, (i) Hillwood LIT II, LP, a Delaware limited partnership ("**HLIT II**"), and (ii) Lion Industrial Properties, L.P., a Delaware limited partnership ("**Lion**").

(b) The definition of Guaranty set forth in Section 1.1 of the Loan Agreement is amended in its entirety to read as follows:

"**Guaranty**" means, collectively, (i) that certain Guaranty Agreement of even date with the Note from HLIT II in favor of Lender, as the same may be modified from time to time, and (ii) that certain Repayment Guaranty dated October 23, 2009, executed by Lion in favor of Lender, as the same may be modified from time to time.

(c) The defined term "**Material Adverse Effect**" is hereby added to Section 1.1 of the Loan Agreement and shall read as follows:

"**Material Adverse Effect**" means any set of circumstances or events which would reasonably be expected to (a) have any material adverse effect upon the validity or enforceability of any Loan Document, (b) be material and adverse to the financial condition or business operations of the Property, (c) materially impair Borrower's and Guarantor's ability to fulfill their respective obligations under the Loan Documents or (d) cause an Event of Default.

(d) All references to "Guarantor" in Sections 5.10(a) and 5.10(b) of the Loan Agreement shall hereinafter refer only to Existing Guarantor and shall not refer to New Guarantor (whose financial statements are to be delivered pursuant to Sections 5.10(e) and 5.10(f) of the Loan Agreement).

(e) Sections 5.10(e) and 5.10(f) are hereby added to the Loan Agreement, and read as follows:

“(e) Borrower shall cause Lion to deliver to Lender, as soon as available, but in no event later than one hundred twenty (120) days after Lion's fiscal year end and within ninety (90) days after the end of each calendar quarter, covering such fiscal year or quarter then ended, as applicable, a current financial statement (including, without limitation, an income statement, cash flow statement and balance sheet and such other information necessary to calculate the financial covenants applicable to Lion) signed by a senior financial representative of Lion. Lion shall also deliver to Lender within fifteen (15) days after Lender's request, any other financial information reasonably requested by Lender. If audited financial information is prepared, Lion shall deliver to Lender copies of that information within fifteen (15) days of its final preparation. Except as otherwise agreed to by Lender, all such financial information shall be prepared in accordance with generally accepted accounting principles consistently applied.

(f) Borrower shall also cause Lion to deliver to Lender a Compliance Certificate at the same time as such Compliance Certificate is delivered to Bank of America, N.A. under that certain Credit Agreement dated as of September 8, 2006, by and among Lion, Lion Industrial Trust, and Bank of America, N.A., as Administrative Agent and L/C Issuer and the other financial institutions a party thereto (as may be amended, restated, or replaced, the “**B of A Credit Agreement**”), and any and all financial information and statements and other documents or items reasonably required by Lender to support or evidence the statements contained in such Compliance Certificate. The Compliance Certificate shall cover all the financial matters addressed in the Repayment Guaranty. In the event the B of A Credit Agreement ceases to exist during the term of the Loan, the financial covenants and the form of Compliance Certificate required to be delivered by Lion under the Repayment Guaranty shall continue in full force and effect as defined in the B of A Credit Agreement prior to the termination thereof.”

(f) Section 5.13 of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“5.13 Updated Appraisals. For so long as the Loan remains outstanding, if any Event of Default shall occur and is continuing, or if any external regulatory authority having jurisdiction over Lender shall so require, then in any such event Lender may cause the Project to be reappraised at the Borrower's expense. Lender may, at its own expense, have the Project reappraised at any other time during the term of the Loan as well. The right to appraisals in this paragraph are in addition to Lender's rights to have the Project reappraised under the Third Modification Agreement. Borrower agrees to cooperate with Lender in all re-appraisals of the Project as described in this Section 5.13 and in the Third Modification Agreement.”

(g) Section 7.1(a) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“(a) The failure by Borrower to make any payment of interest or principal or any other sum due under the Note, the Deed of Trust or any other Loan Document, within five (5) days of when such payment is due, whether by acceleration or otherwise; or”

(h) Section 7.1(c) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“(c) The failure of Borrower properly and timely to perform or observe any covenant or condition set forth in this Loan Agreement (other than those specified in (a) and (b) of this Section) or any other Loan Documents which is not cured within any applicable cure period as set forth herein or, if no cure period is specified therefor, is not cured within thirty (30) days of Lender’s written notice to Borrower of such Default; provided, however, that in the event such default reasonably cannot be cured within said thirty (30) day period, is not cured with such additional period as shall be necessary to complete said cure (but not to exceed an additional thirty (30) days), provided that Borrower commences said cure within the initial thirty (30) day period and thereafter diligently and in good faith prosecutes said cure to completion; or”

(i) Section 7.1(j) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“(j) The occurrence of any Material Adverse Effect since the effective date of the Third Modification Agreement.”

(j) Section 7.1(k) is hereby added to the Loan Agreement, and reads as follows:

“(k) The occurrence of a default by any Guarantor under any Guaranty which is not cured within any applicable grace or cure period, or any failure by any Guarantor to timely provide the financial statements, certificates and information to Lender required under Section 5.10 of this Agreement and which failure is not cured within thirty (30) days after written notice from Lender to Borrower of such failure.”

7. **Modification to Deed of Trust.** Section 2.01(a) of the Deed of Trust is hereby amended and restated in its entirety to read as follows:

“(a) Failure of Grantor properly and timely to perform or observe any covenant or condition set forth in this Deed of Trust or any other Loan Document (except for the payment of principal, accrued interest and other agreed charges due under the Note, or any other Event of Default under any of the Loan Documents for which a specific cure period is provided) within thirty (30) days of written notice to Grantor of such default; provided, however, that in the event such default reasonably cannot be cured within said thirty (30) day period, is not cured with such additional period as shall be necessary to complete said cure (but

not to exceed an additional thirty (30) days), provided that Grantor commences said cure within the initial thirty (30) day period and thereafter diligently and in good faith prosecutes said cure to completion; or"

8. **Modifications to Existing Guaranty.** From and after the Effective Date, the Existing Guaranty is hereby amended as follows:

(a) Sections 3(a), (b), (c), (e), (f), and (g) of the Existing Guaranty are hereby deleted in their entirety and are of no further force and effect.

(b) The beginning of the first sentence of Section 3(d) of the Existing Guaranty through the phrase "unlimited liability for the following:" in the third and fourth line thereof is hereby amended and restated to read as follows:

"(d) The Guarantor shall at all times be subject to unlimited liability for the following:"

Guarantor acknowledges and agrees that it is the intent of the parties that the Guarantor shall guarantee (and that the Guaranty shall cover) all outstanding "Loan Obligations" (as such term is defined in the Guaranty) of the Borrower under the Loan Documents pursuant to the Guaranty (as amended by this Section 8(b) and Section 8(a) above, including without limitation, all outstanding principal and accrued interest, and without any limitation or reduction of liability, and that the foregoing amendments to the Guaranty have been made and agreed to by the parties in consideration of the extension of the maturity of the Loan and the other modifications to the Loan Documents agreed to by Lender pursuant to this Agreement.

(c) Section 5(a) of the Existing Guaranty is hereby amended to read as follows:

"(a) Payment of Loan/Performance of Loan Obligations. Within five (5) days of Lender's demand thereof, duly and punctually pay or cause to be paid the principal and interest then due pursuant to the Note and duly and punctually pay or perform or cause to be paid or performed all other Loan Obligations then due."

(d) Section 5(b) of the Existing Guaranty is hereby amended to read as follows:

"(b) Guarantor shall deliver to Lender, as soon as available, but in no event later than ninety (90) days after Guarantor's fiscal year end and within forty-five (45) days after the end of each calendar quarter, covering such fiscal year or quarter then ended, as applicable, a current financial statement (including, without limitation, an income statement, cash flow statement and balance sheet and such other information necessary to calculate the financial covenants herein contained) signed by a senior financial representative of Guarantor. Guarantor shall deliver to Lender within fifteen (15) days after Lender's request, any other

financial information reasonably requested by Lender. If audited financial information is prepared, Guarantor shall deliver to Lender copies of that information within fifteen (15) days of its final preparation. Except as otherwise agreed to by Lender, all such financial information shall be prepared in accordance with generally accepted accounting principles consistently applied."

9. **Appraisals.** Notwithstanding anything to the contrary contained in the Loan Documents, Lender shall have the right, on or about the 24th month after the Effective Date (i.e., as of July 15, 2011), and at Borrower's sole cost and expense, to order and obtain a new appraisal of the Mortgaged Property conducted and prepared by an MAI appraiser acceptable to Lender in its sole discretion, commissioned by and addressed to Lender, in form and content acceptable to Lender in its sole discretion; provided, however, that any reappraisal of any Property shall not result in any remargin of the Loan or any additional principal amortization payments required by Borrower under this Agreement solely on account of such reappraisal.

10. **Cross-Default and Cross-Collateralization.** Borrower acknowledges that Lender previously made a loan to Existing Guarantor and HLIT II Tradepoint, L.P., a Texas limited partnership ("**HLIT Tradepoint**") and together with Existing Guarantor, collectively the "**Related Borrower**"), which Related Borrower is an affiliate of Borrower, in the original stated principal amount of \$7,176,000.00 (the "**Related Loan**"). The Related Loan is evidenced, in part, by (a) that certain Amended and Restated Promissory Note dated June 15, 2005 executed by Hillwood Fund No. 1, L.P., a Texas limited partnership ("**Hillwood Fund**") and payable to the order of Lender in the stated principal amount of \$7,176,000.00, as modified by (i) that certain Loan Assumption and Modification Agreement dated as of July 11, 2005 (the "**First Assumption Agreement**") executed by and among Hillwood Fund, HLIT Tradepoint, Hillwood Investment Group, L.P., a Texas limited partnership ("**Hillwood Investment**") and Lender, and being recorded in Volume 2005134, Page 5 of the Real Property Records of Dallas County, Texas, (ii) that certain Note Modification, Extension and Assumption Agreement dated as of April 4, 2007 (the "**Second Assumption Agreement**", and together with the First Assumption Agreement, herein called the "**Assumption Agreements**") executed by and among Related Borrower and Lender, recorded in the Real Property Records of Dallas County, Texas, and (iii) that certain Second Modification and Extension Agreement dated June 29, 2009, recorded as Document No. 200900192544 of the Real Property Records of Dallas County, Texas, executed by and among Related Borrower and Lender (the "**Related Second Modification**") (said promissory note, as amended by the Assumption Agreements and Related Second Modification, the "**Related Note**"), (b) that certain Loan Agreement between Hillwood Fund and SouthTrust Bank, an Alabama banking corporation (as predecessor-in-interest to Lender) ("**SouthTrust**") dated January 9, 2003, as amended by (i) the Second Modification, and (ii) that certain Amendment and Ratification Agreement dated June 15, 2005 (the "**Ratification Agreement**") executed by and among Hillwood Fund, Hillwood Investment, and Lender, as assumed by Related Borrower and amended pursuant to the Assumption Agreements (said loan agreement, as assumed and modified by the Assumption Agreements, Ratification Agreement, and Related Second Modification is herein called the "**Related Loan Agreement**"), (c) that certain Deed of Trust and Security Agreement dated January 9, 2003, executed by Hillwood Fund in favor of Republic Title of Texas, Inc., as Trustee, for the benefit of SouthTrust, securing payment of the Related Note, covering certain real property and personal property described therein, recorded in

Volume 2003006, Page 115 of the Real Property Records of Dallas County, Texas, as assumed by Related Borrower and affected and amended by (i) the Ratification Agreement, (ii) the Assumption Agreements and (iii) that certain Amendment to Deed of Trust and Security Agreement and Assignment of Rents and Leases and Spreader Agreement dated as of June 15, 2005 (the "**Spreader Agreement**"), executed by Hillwood Fund and Lender, recorded in Volume 2005117, Page 8936 of the Real Property Records of Dallas County, Texas, and (iv) the Related Second Modification (said deed of trust, as assumed and modified by the Ratification Agreement, the Assumption Agreements the Spreader Agreement, and the Second Modification is herein called the "**Related Deed of Trust**"), and together with the Related Note, Related Loan Agreement and all other documents evidencing and/or securing the Related Note, herein collectively called the "**Related Loan Documents**"). Borrower agrees that as consideration for the extension of the Maturity Date and other modifications to the Loan Documents evidenced by this Agreement, the Loan shall be cross-defaulted and cross-collateralized with the Related Loan. Accordingly, Borrower and Lender hereby agree as follows:

(a) An event of default by the Related Borrower or any other party obligated under any of the Related Loan Documents, including without limitation, any guarantor of the Related Loan, after the expiration of any applicable grace or cure period provided under the Related Loan Documents (a "**Related Loan Default**"), shall constitute an Event of Default under this Agreement, the Loan Agreement, the Deed of Trust and each of the other Loan Documents, and upon the occurrence of such event, Lender may exercise any and all remedies provided under the Loan Documents in accordance with the Loan Documents and applicable law, in such order and at such time as Lender may elect.

(b) In order to evidence the cross-collateralization of the Loan with the Related Loan, contemporaneously with the execution of this Agreement, Borrower will execute in favor of Lender a second lien deed of trust covering the Mortgaged Property (the "**Second Lien Deed of Trust**"), in substantially the same form as the Deed of Trust and otherwise in form and substance acceptable to Lender, which Second Lien Deed of Trust will encumber all of the Mortgaged Property and secure all of the indebtedness outstanding under the Related Loan Documents (in addition to the indebtedness under the Loan). The Second Lien Deed of Trust shall be deemed to be a "Loan Document" for all purposes under this Agreement and the other Loan Documents. Borrower and Lender each acknowledge and agree that it is not the intention of the parties that Borrower shall be personally liable for the repayment of the indebtedness under the Related Loan Documents; however, the Mortgaged Property shall serve as additional collateral and security for the repayment of the Related Loan. During the existence of any Event of Default under any of the Loan Documents or a Related Loan Default under any of the Related Loan Documents, Lender may, at its option and from time to time, elect to exercise any and all remedies provided under the Loan Documents and/or the Related Loan Documents, at law, or in equity, and Lender's failure to exercise any remedies provided under the Loan Documents and/or the Related Loan Documents shall not preclude Lender from later exercising any such remedies.

(c) In the event that Borrower desires to sell the Mortgaged Property and have the cross-collateralization with the Related Loan released by Lender, including a release

of the Second Lien Deed of Trust, Lender will agree to release the Second Lien Deed of Trust and the cross-collateralization, provided that in connection with such sale, Borrower pays to Lender an amount (the "**Release Price**") equal to the greater of (i) ninety-five percent (95%) of the net sales proceeds received from the sale of the Mortgaged Property (net sales proceeds being the gross sales price for the Mortgaged Property, less the reasonable, normal and customary closing costs for the sale of the Mortgaged Property not to exceed eight percent (8%) of the gross sales price for the Mortgaged Property) or (ii) a sum equal to (1) an amount sufficient to repay all indebtedness outstanding under the Loan Documents (but not including the indebtedness under the Related Loan) **plus** (2) an amount sufficient to reduce the "Loan-to-Value Ratio" (as hereinafter defined) for the Related Loan, after such payment against the Related Loan, to not more than sixty-five percent (65.0%); but in no event shall the Release Price exceed the aggregate amount of the outstanding indebtedness under the Loan and the Related Loan. In connection with any such release of the cross-collateralization, any such Release Price shall be applied first to the outstanding indebtedness under the Loan, and then to the outstanding indebtedness under the Related Loan. As used herein, the term "**Loan-to-Value Ratio**" means the percentage obtained by dividing the outstanding indebtedness under the Related Loan by the fair market value of the property owned by HLIT Tradepoint and covered by the Related Deed of Trust (the "**Related Property**"), as reflected by a current appraisal of the Related Property at the time of such calculation, which appraisal shall be prepared by an MAI appraiser acceptable to Lender in its sole discretion, commissioned by and addressed to Lender, in form and content acceptable to Lender in its sole discretion.

11. **New Guaranty.** As a condition to the effectiveness of this Agreement, New Guarantor will execute a Repayment Guaranty (the "**New Guaranty**"), in form and substance acceptable to Lender, pursuant to which New Guaranty the New Guarantor shall guarantee a portion of the indebtedness outstanding under the Loan Documents and certain other obligations of Borrower as more particularly provided therein. The New Guaranty is and shall be deemed to be a "Loan Document", as such term is used in this Agreement and the other Loan Documents. By its execution of this Agreement, New Guarantor hereby consents to the amendments and modifications to the Loan Documents evidenced by this Agreement.

12. **Governing Law.** This Agreement and all of the Loan Documents, and the rights and obligations of the parties hereunder and under the Loan Documents, shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of Texas (without giving effect to Texas' principles of conflicts of law) and the law of the United States applicable to transactions in the state of Texas. All references in the Loan Documents, except the Deed of Trust, which provide that the laws of the State of Mississippi govern the relationship of the parties or any of the provisions of the Loan Documents are hereby amended to mean and refer to the laws of the State of Texas.

13. **Release of Lender.** Borrower, Existing Guarantor, and New Guarantor hereby release, remise, acquit and forever discharge Lender, together with its employees, agents, representatives, consultants, attorneys, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions (all of the foregoing hereinafter called the "**Released Parties**"), from any and

all actions and causes of action, judgments, executions, suits, debts, claims, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, whether heretofore or hereafter accruing, for or because of any matter or things done, omitted or suffered to be done by any of the Released Parties (but not for the gross negligence or willful misconduct of any of the Released Parties) prior to and including the Effective Date, and in any way directly or indirectly arising out of or in any way connected to this Agreement or any Loan Document, or any of the transactions associated therewith, or the Mortgaged Property, including specifically but not limited to claims of usury, but in each case only to the extent arising on or prior to the Effective Date. **THE FOREGOING RELEASE INCLUDES ACTIONS AND CAUSES OF ACTION, JUDGMENTS, EXECUTIONS, SUITS, DEBTS, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, DAMAGES AND EXPENSES ARISING AS A RESULT OF THE NEGLIGENCE (BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF ONE OR MORE OF THE RELEASED PARTIES.**

14. **Representations of Borrower, Guarantor, and New Guarantor.**

(a) Borrower hereby represents and warrants that (i) Borrower is the lawful owner of good and indefeasible title to the Mortgaged Property; (ii) the Loan Documents to which Borrower is a party and this Agreement constitute the legal, valid and binding obligations of Borrower, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and other laws applicable to creditors' rights or the collection of debtors' obligations generally; (iii) the execution and delivery of this Agreement by Borrower do not contravene, result in a breach of or constitute a default under any deed of trust, deed to secure debt, mortgage, loan agreement, indenture or other contract, agreement or undertaking to which Borrower is a party or by which Borrower or any of Borrower's properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and do not violate or contravene any law, order, decree, rule or regulation to which Borrower is subject; (iv) to the best of Borrower's knowledge, and subject to the execution of this Agreement by Borrower, Guarantor and Lender, there exists no uncured default under the Loan Documents; (v) there are no existing offsets, claims or defenses to the Loan Documents; and (vi) there has been no change in the organizational structure of Borrower and Borrower is currently duly organized and legally existing under the laws of its state of organization. Borrower agrees to indemnify and hold Lender harmless against any actual loss, claim, damage, liability or expense (including without limitation reasonable attorneys' fees actually incurred) incurred as a result of any representation or warranty made by Borrower herein proving to be untrue in any material respect as of the Execution Date.

(b) Existing Guarantor hereby represents and warrants that (i) Existing Guarantor is duly organized and legally existing and good standing under the laws of the State of Delaware; (ii) the Existing Guaranty, the Indemnity Agreement and this Agreement constitute the legal, valid and binding obligations of Existing Guarantor, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and other laws applicable to creditors' rights or the collection of debtors' obligations generally; (iii) the execution and

delivery of this Agreement by Existing Guarantor do not contravene, result in a breach of or constitute a default under any deed of trust, deed to secure debt, mortgage, loan agreement, indenture or other contract, agreement or undertaking to which Existing Guarantor is a party or by which Existing Guarantor or any of Existing Guarantor's properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and do not violate or contravene any law, order, decree, rule or regulation to which Existing Guarantor is subject; (iv) to the best of Existing Guarantor's knowledge, and subject to the execution of this Agreement by Borrower, Guarantor and Lender, there exists no uncured default under the Existing Guaranty and Indemnity Agreement; (v) there are no existing offsets, claims or defenses to the Existing Guaranty and Indemnity Agreement; and (vi) there has been no change in the organizational structure of Existing Guarantor and Existing Guarantor is currently duly organized and legally existing and in good standing under the laws of its state of organization. Existing Guarantor agrees to indemnify and hold Lender harmless against any actual loss, claim, damage, liability or expense (including without limitation reasonable attorneys' fees actually incurred) incurred as a result of any representation or warranty made by Existing Guarantor herein proving to be untrue in any material respect as of the Execution Date. Existing Guarantor hereby (i) agrees to the modifications to the Existing Guaranty in Section 8 of this Agreement, (ii) acknowledges and agrees with Lender that, except for the modifications to the Existing Guaranty contained in this Agreement, all of the obligations of Existing Guarantor under the Existing Guaranty and the Indemnity Agreement are and shall be unaffected by the amendments and modifications to the Loan Documents evidenced by this Agreement, and (iii) confirms, acknowledges and agrees that the Existing Guaranty and Indemnity Agreement, as modified hereby, are hereby ratified and confirmed in all respects.

(c) New Guarantor hereby represents and warrants that (i) New Guarantor is duly formed and legally existing and in good standing under the laws of the State of Delaware; and (ii) the execution and delivery of this Agreement by New Guarantor do not contravene, result in a breach of or constitute a default under any deed of trust, deed to secure debt, mortgage, loan agreement, indenture or other contract, agreement or undertaking to which New Guarantor is a party or by which New Guarantor may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and do not violate or contravene any law, order, decree, rule or regulation to which New Guarantor is subject. New Guarantor agrees to indemnify and hold Lender harmless against any actual loss, claim, damage, liability or expense (including without limitation reasonable attorneys' fees actually incurred) incurred as a result of any representation or warranty made by New Guarantor herein proving to be untrue in any material respect as of the Execution Date.

15. **Additional Documentation.** Borrower, upon request from Lender, agrees to execute such other and further documents as may be reasonably necessary or appropriate to consummate the transactions contemplated herein or to perfect the liens and security interests intended to secure the payment of the Loan.

16. **Default.** If Borrower shall fail to keep or perform any of the covenants or agreements contained herein or if any statement, representation or warranty contained herein is

false, misleading or erroneous in any material respect, then after the expiration of any applicable grace or cure period provided in the Loan Documents, Borrower shall be deemed to be in default under the Loan Documents, and Lender shall thereupon be entitled at its option to exercise any and all of the rights and remedies granted pursuant to the Loan Documents or to which Lender may otherwise be entitled, whether at law or in equity.

17. **Recordation; Endorsement of Loan Title Policy.** Contemporaneously herewith, Lender will deliver this Agreement for recording in the appropriate records of the county where the Mortgaged Property is located at Borrower's expense, and Borrower shall, at its sole cost and expense, obtain and deliver to Lender an endorsement to Lender's existing loan policy of title insurance insuring the lien of the Deed of Trust as modified hereby, and otherwise in form and content acceptable to Lender.

18. **Ratification of Loan Documents.** Except as provided herein, the terms and provisions of the Loan Documents shall remain unchanged and shall remain in full force and effect. The Loan Documents, as modified and amended hereby, are hereby ratified and confirmed in all respects. All liens, security interests, mortgages and assignments granted or created by or existing under the Loan Documents continue, unabated, in full force and effect, to secure Borrower's obligation to repay the Note. All references in any of the Loan Documents to the Loan Documents shall hereafter refer to the Loan Documents, as amended hereby.

19. **Liens Valid; No Offsets or Defenses.** Borrower hereby acknowledges that the liens, security interests and assignments created and evidenced by the Loan Documents are valid and subsisting and further acknowledges and agrees that there are no offsets, claims or defenses to any of the Loan Documents.

20. **No Waiver.** Lender acknowledges that Lender and its agents in the past may have accepted, without exercising the remedies to which Lender was entitled, payments and performance by Borrower that constituted Events of Defaults under the Loan Documents. Borrower acknowledges that no such acceptance or grace granted by Lender or its agents in the past, or Lender's agreement to the modifications evidenced hereby, has in any manner diminished Lender's right in the future to insist that Borrower strictly comply with the terms of the Loan Documents, as modified by the terms hereof. Furthermore, Borrower specifically acknowledges that any future grace or forgiveness of default by Lender shall not constitute a waiver or diminishment of any right of Lender with respect to any future default of Borrower, whether or not similar to any default with respect to which Lender has in the past chosen, or may in the future choose, not to exercise all of the rights and remedies granted to it under the Loan Documents.

21. **Usury Savings Provision.** Notwithstanding any provision in the Loan Documents to the contrary, the following provisions shall govern and control with respect to any usury savings provision contained in the Note and other Loan Documents, and shall be deemed incorporated into the Loan Documents:

It is expressly stipulated and agreed to be the intent of Borrower and Lender at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Note or the Related Indebtedness (or applicable United States federal

law to the extent that it permits Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Borrower and Lender related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged or received by reason of Lender's exercise of the option to accelerate the maturity of the Note and/or the Related Indebtedness, or (iii) Borrower will have paid or Lender will have received by reason of any voluntary prepayment by Borrower of the Note and/or the Related Indebtedness, then it is Borrower's and Lender's express intent that all amounts charged in excess of the Maximum Lawful Rate shall be automatically cancelled, ab initio, and all amounts in excess of the Maximum Lawful Rate theretofore collected by Lender shall be credited on the principal balance of the Note and/or the Related Indebtedness (or, if the Note and all Related Indebtedness have been or would thereby be paid in full, refunded to Borrower), and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible under the Note and other Loan Documents and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for thereunder; provided, however, if the Note has been paid in full before the end of the stated term of the Note, then Borrower and Lender agree that Lender shall, with reasonable promptness after Lender discovers or is advised by Borrower that interest was received in an amount in excess of the Maximum Lawful Rate, either refund such excess interest to Borrower and/or credit such excess interest against the Note and/or any Related Indebtedness then owing by Borrower to Lender. Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against Lender, Borrower will provide written notice to Lender, advising Lender in reasonable detail of the nature and amount of the violation, and Lender shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrower or crediting such excess interest against the Note and/or the Related Indebtedness then owing by Borrower to Lender. All sums contracted for, charged or received by Lender for the use, forbearance or detention of any debt evidenced by the Note and/or the Related Indebtedness shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Note and/or the Related Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note and/or the Related Indebtedness does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the Note and/or the Related Indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note and/or the Related Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration. Borrower and Lender hereby agree that any and all suits alleging the contracting for, charging or receiving of usurious interest shall lie in Dallas County, Texas, and each irrevocably waive the right to venue in any other county.

As used herein, the term "**Maximum Lawful Rate**" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Lender in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all Charges (as herein defined) made in connection with the transaction evidenced by the Note and the other Loan Documents. As used herein, the term "**Charges**" shall mean all fees, charges and/or any other things of value, if any, contracted for, charged, received, taken or reserved by Lender in connection with the transactions relating to the Note and the other Loan Documents, which are treated as interest under applicable law. As used herein, the term "**Related Indebtedness**" shall mean any and all debt paid or payable by Borrower to Lender pursuant to the Loan Documents or any other communication or writing by or between Borrower and Lender related to the transaction or transactions that are the subject matter of the Loan Documents, except such debt which has been paid or is payable by Borrower to Lender under the Note.

To the extent that Lender is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Lawful Rate payable on the Note and/or the Related Indebtedness, Lender will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent United States federal law permits Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Lender will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Lender may, at its option and from time to time, utilize any other method of establishing the Maximum Lawful Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Borrower as provided by applicable law now or hereafter in effect.

Notwithstanding anything in the Note to the contrary, if at any time (i) interest at the applicable interest rate under the Note (the "**Effective Rate**"), and (ii) the Charges computed over the full term of the Note, exceed the Maximum Lawful Rate, then the Effective Rate, together with all Charges, shall be limited to the Maximum Lawful Rate; provided, however, that any subsequent reduction in the Effective Rate shall not cause a reduction of the rate of interest payable under the Note below the Maximum Lawful Rate until the total amount of interest earned under the Note, together with all Charges, equals the total amount of interest which would have accrued at the Effective Rate if such interest rate had at all times been in effect. Changes in the Effective Rate resulting from a change in the One-Month LIBO Rate or Replacement Rate shall be subject to the provisions of this paragraph."

22. **Integration.** This Agreement supersedes and merges all prior and contemporaneous promises, representations and agreements with respect to the matters set forth herein. No modification of this Agreement or any of the Loan Documents, or any waiver of rights under any of the foregoing, shall be effective unless made by supplemental agreement, in writing, executed by Lender and Borrower. Lender and Borrower further agree that this

Agreement may not in any way be explained or supplemented by a prior, existing or future course of dealings between the parties or by any prior, existing, or future performance between the parties pursuant to this Agreement or otherwise.

23. **Notice.** Any notice or communication required or permitted hereunder shall be given in accordance with the provisions of the Loan Agreement, except that any notice to be delivered to Lender shall be sent to the following addresses:

If to Lender: Wachovia Bank, National Association
c/o Wells Fargo Bank, National Association
Real Estate Banking Group (AU # 01145)
5400 LBJ Freeway, Suite 1000
Dallas, Texas 75240
Attention: Loan Administration, Dwight Reid

With copy to: Thompson & Knight LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201-2533
Attention: Mark M. Sloan

In addition, a courtesy copy of any notice delivered to Borrower shall be delivered to:

Lion Industrial Properties, L.P.
c/o ING Clarion Partners
2650 Cedar Springs Road, Suite 850
Dallas, Texas 75201
Attention: John Killian

24. **Costs and Expenses.** Contemporaneously with the execution and delivery hereof, Borrower shall pay, or cause to be paid, all costs and expenses incident to the preparation hereof and the consummation of the transactions specified herein, including without limitation title insurance policy endorsement charges, recording fees and reasonable fees and expenses of legal counsel to Lender.

25. **Severability.** If any covenant, condition, or provision herein contained is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall not in any way affect any other covenant, condition or provision herein contained.

26. **Time of the Essence.** It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement.

27. **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

28. **Successors and Assigns.** The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

29. **Notice of Final Agreement.** Borrower, Existing Guarantor, New Guarantor, and Lender hereby take notice of and agree to the following:

A. PURSUANT TO SUBSECTION 26.02(b) OF THE TEXAS BUSINESS AND COMMERCE CODE, A LOAN AGREEMENT IN WHICH THE AMOUNT INVOLVED THEREIN EXCEEDS \$50,000 IN VALUE IS NOT ENFORCEABLE UNLESS THE AGREEMENT IS IN WRITING AND SIGNED BY THE PARTY TO BE BOUND OR BY THAT PARTY'S AUTHORIZED REPRESENTATIVE.

B. PURSUANT TO SUBSECTION 26.02(c) OF THE TEXAS BUSINESS AND COMMERCE CODE, THE RIGHTS AND OBLIGATIONS OF THE PARTIES TO THE LOAN DOCUMENTS SHALL BE DETERMINED SOLELY FROM THE LOAN DOCUMENTS, AND ANY PRIOR ORAL AGREEMENTS BETWEEN THE PARTIES ARE SUPERSEDED BY AND MERGED INTO THE LOAN DOCUMENTS.

C. THE LOAN DOCUMENTS AND THIS AGREEMENT REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES THERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, this Agreement is executed as of the date set forth in the acknowledgments below but is effective as of the day and year first above written.

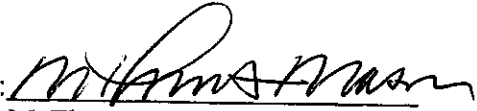
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SIGNATURE PAGES FOLLOW

**SIGNATURE PAGE OF BORROWER TO
THIRD MODIFICATION AND EXTENSION AGREEMENT**

HLIT ADC1, LLC, a Mississippi limited liability company

By: Hillwood LIT II, LP, a Delaware limited partnership, its Sole Member

By: Hillwood LIT II GP, LLC, a Texas limited liability company, its General Partner

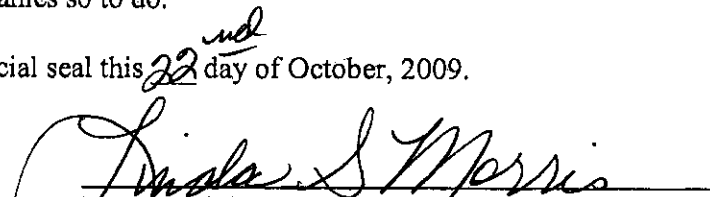
By: 
M. Thomas Mason,
Executive Vice President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Personally appeared before me, the undersigned authority in and for the said county and state, on this 22nd day of October, 2009, within my jurisdiction, the within named M. Thomas Mason, who acknowledged to me that he is the Executive Vice President of Hillwood LIT II GP, LLC, a Texas limited liability company and General Partner of Hillwood LIT II, LP, a Delaware limited partnership and Sole Member of HLIT ADC1, LLC, a Mississippi limited liability company, and that for and on behalf of Hillwood LIT II GP, LLC, as General Partner of Hillwood LIT II, LP, a Delaware limited partnership, and for and on behalf of Hillwood LIT II, LP as Sole Member of HLIT ADC1, LLC, and as the act and deed of Hillwood LIT II GP, LLC, as General Partner of Hillwood LIT II, LP, and as the act and deed of Hillwood LIT II, LP as Sole Member of HLIT ADC1, LLC, and as the act and deed of HLIT ADC1, LLC, he executed the above and foregoing instrument, after first having been duly authorized by said limited partnership and limited liability companies so to do.

Given under my hand and official seal this 22nd day of October, 2009.




Notary Public, State of Texas
[NOTARIAL SEAL]
My Commission Expires: _____

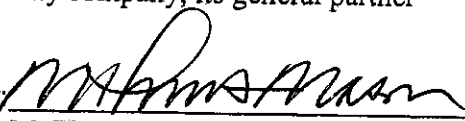
[Signature Page]

HLIT ADC 1, LLC

**SIGNATURE PAGE OF EXISTING GUARANTOR TO
THIRD MODIFICATION AND EXTENSION AGREEMENT**

HILLWOOD LIT II, LP,
a Delaware limited partnership

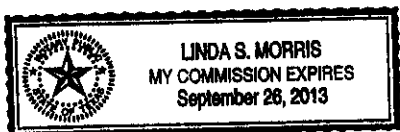
By: Hillwood LIT II GP, LLC, a Texas limited
liability company, its general partner

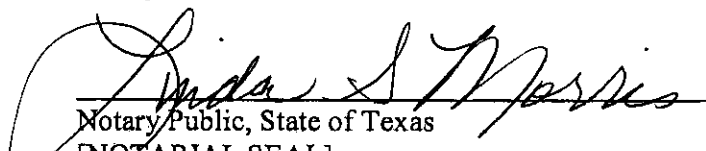
By: 
M. Thomas Mason,
Executive Vice President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Personally appeared before me, the undersigned authority in and for the said county and state, on this 22nd day of October, 2009, within my jurisdiction, the within named M. Thomas Mason, who acknowledged to me that he is the Executive Vice President of Hillwood LIT II GP, LLC, a Texas limited liability company, and General Partner of Hillwood LIT II, LP, a Delaware limited partnership, and that for and on behalf of Hillwood LIT II GP, LLC, as General Partner of Hillwood LIT II, LP, a Delaware limited partnership, and as the act and deed of Hillwood LIT II GP, LLC, as General Partner of Hillwood LIT II, LP, and as the act and deed of Hillwood LIT II, LP, he executed the above and foregoing instrument, after first having been duly authorized by said limited partnership and limited liability company so to do.

Given under my hand and official seal this 22nd day of October, 2009.




Notary Public, State of Texas
[NOTARIAL SEAL]
My Commission Expires: _____

[Signature Page]

HLIT ADC 1, LLC

**SIGNATURE PAGE OF NEW GUARANTOR TO
THIRD MODIFICATION AND EXTENSION AGREEMENT**

LION INDUSTRIAL PROPERTIES, L.P.,
a Delaware limited partnership

By: LIT GP Sub, LLC, a Delaware limited
liability company, its sole general partner

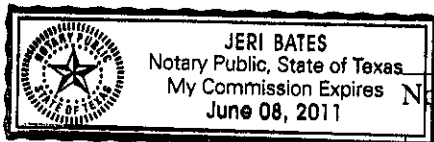
By: Lion Industrial Trust, a Maryland
real estate investment trust, its sole
member and manager

By: James V. Schunk
Name: James V. Schunk
Title: Vice President

STATE OF Texas §
COUNTY OF Dallas §

This instrument was acknowledged before me on the 23 day of October, 2009, by James V. Schunk, Vice President of Lion Industrial Trust, a Maryland real estate investment trust, on behalf of said trust in its capacity as sole member and manager of LIT GP Sub, LLC, a Delaware limited liability company, on behalf of said limited liability company in its capacity as sole general partner of Lion Industrial Properties, L.P., a Delaware limited partnership, on behalf of said limited partnership.

[SEAL]



My Commission Expires:

6/08/2011

Jeri Bates
Notary Public, State of Texas

Jeri Bates
(Printed Name of Notary Public)

[Signature Page]

**SIGNATURE PAGE OF LENDER TO
THIRD MODIFICATION AND EXTENSION AGREEMENT**

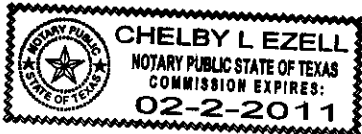
**WACHOVIA BANK, NATIONAL
ASSOCIATION**, a national banking association

By: *Francine G. Bradford*
Name: Francine G. Bradford
Title: Vice President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Personally appeared before me, the undersigned authority in and for the said county and state, on this 22 day of October, 2009, within my jurisdiction, the within named Francine G. Bradford, who acknowledged to me that she is a Vice President of WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association, and as the act and deed of Wachovia Bank, National Association, he executed the above and foregoing instrument, after first having been duly authorized by said national banking association so to do.

Given under my hand and official seal this 22 day of October, 2009.



Chelby L. Ezell
Notary Public, State of Texas
[NOTARIAL SEAL]
My Commission Expires: 2/2/2011